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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3676

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/710,806	Applicant(s) CUMMINS ET AL.	
	Examiner Carlos Lugo	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 16-27 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15, 28-32 and 34-40 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>attachment #1</u> . |

DETAILED ACTION

1. This Office Action is in response to applicant's election filed on March 29, 2006.

Election/Restrictions

2. Applicant's election with traverse of Species #1, drawn to claims 1-15, 19 and 28-40 in the reply filed on March 29, 2006 is acknowledged. The traversal is on the ground(s) that because each species claimed by the applicant operates in essentially the same general manner, the requirement is improper.

This is not found persuasive because each species claimed by the applicant operates in a different manner that requires a different search.

The species illustrated in Figures 1-5 requires that the secondary actuator (18) will pull or slide the second latch (22) and that the secondary latch has a flange that is received in a groove of the secondary actuator.

The species illustrated in Figures 6-9 requires that the secondary actuator (18) pivot the second latch (22) so as to allow the handle to move between the latched and unlatched positions (arcuate path).

The species illustrated in Figures 10-12 requires that the secondary actuator (18) pivot the latch. The assembly will not require a biasing member since the secondary actuator itself is a biasing member.

The species illustrated in Figures 13-15 requires that the secondary actuator and the secondary latch is a one-piece member, not separate members.

The species illustrated in Figures 16-18 requires that the secondary actuator comprises a magnet to attract the secondary latch.

The species illustrated in Figures 19-21 requires that the secondary actuator comprises a magnet to attract the secondary latch in addition to a biasing member in the latch so as to bias the latch.

The species illustrated in Figures 22-25 requires that the secondary latch include a biasing member to bias the latch.

Therefore, since each species is distinctively from one another, and requires a different search, the restriction was appropriate.

Also, after further consideration, claims 33 and 34 requires two different actuation paths, one linearly and one arcuate. Therefore, claims 33 and 34 are no longer considered as generic claims since some of the species requires movement in a linear path and other movement in an arcuate path.

Further, the applicant believes that claim 19 reads on the selected species, species #1 Figures 1-5. However, claim 19 requires a biasing member that biases the latch. The species elected do not requires a latch-biasing member. At the instant, species #7 is the one that requires a latch-biasing member. Therefore, the claim will not be considered.

In conclusion, only claims 1-4,28-32 and 35-40 are considered as generic claims and only claims 1-15,28-32 and 34-40 are going to be examined as being drawn to the elected species, species #1, Figures 1-5. Claims 16-27 and 33 are withdrawn from consideration.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-13,15,28-32, and 34-40 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 2,219,626 to Johnson.

Regarding claim 1, Johnson discloses a vehicular door handle assembly comprising a primary actuator adapted to be mounted to a vehicle door, wherein the primary actuator has a first user interaction portion (the handle 10) for moving the primary actuator between a latched position and an opened position, and wherein the vehicle door is opened by a user by moving the user interaction portion of the primary actuator between the latched position and the opened position.

The assembly further comprises a secondary actuator operatively associated with the primary actuator, wherein the secondary actuator has a second user interaction portion (18) for moving the secondary actuator between a secure position, wherein movement of the primary actuator from the latched position to the opened position is prevented, and a release position, wherein the primary actuator can move from the latched position to the opened position.

The second user interaction portion is aligned with at least a portion of the first user interaction portion so that attempted movement of the primary actuator out of

the latched position first causes the secondary actuator to be moved from the secure position to the release position.

As to claim 2 and 29, Johnson discloses that the primary actuator comprises a handle (10) and the first user interaction portion comprises a handle hand grip region.

As to claims 3 and 30, Johnson discloses that the secondary actuator comprises a trigger (18) mounted to the handle, and the second user interaction portion comprises a trigger hand grip region.

As to claims 4,31 and 40, Johnson discloses that during the attempted movement of the primary actuator out of the latched position, the user grasps both the handle hand grip region and the trigger hand grip region and moves the trigger hand grip region towards the handle hand grip region to move the trigger from the secure position to the release position.

As to claim 5, Johnson discloses that the trigger (18) is pivotally mounted to the handle.

As to claim 6, Johnson discloses that the assembly further comprises a biasing member (23) that biases the secondary actuator to the secure position.

As to claim 7, Johnson discloses that the biasing member (23) is a leaf spring.

As to claim 8, Johnson discloses that the assembly further comprises a latch (14) operatively associated with the secondary actuator (18) and operable between an active condition, wherein the latch prevents movement of the primary actuator (10) from the latched position, and an inactive condition, wherein the latch allows movement of the primary actuator from the latched position, and wherein movement

of the secondary actuator from the secure position to the release position inactivates the latch.

As to claim 9, Johnson discloses that the assembly further comprises a latch receiver (17) adapted to be mounted to the vehicle door adjacent the primary actuator such that the latch is partially received by the latch receiver and partially received by the primary actuator when the latch is in the active condition.

As to claim 10, Johnson discloses that the assembly further comprises a biasing member (23) that biases the secondary actuator to the secure position and the latch to the active condition, and movement of the secondary actuator against the bias of the biasing member to the release position withdraws the latch from the latch receiver to the inactivate the latch.

As to claim 11, Johnson discloses that the biasing member (23) biases the secondary actuator away from the primary actuator, and the attempted movement of the primary actuator out of the latched position causes the secondary actuator to be moved against the bias of the biasing member and towards the primary actuator.

As to claim 12, Johnson discloses that the secondary actuator is pivotally mounted to the primary actuator (at 21), and pivotal movement of the secondary actuator relative to the primary actuator translates into linear movement of the latch relative to the latch receiver.

As to claim 13, Johnson illustrates that the latch comprises at least one flange, and the secondary actuator comprises a cam in operative communication with the at least one flange to effect the linear movement of the latch (see attachment #1).

As to claim 15, Johnson illustrates that the latch (14) comprises at least one flange and the secondary actuator (18) comprises at least one arm. During the movement of the primary actuator from the secure position to the release position, the at least one arm abuts the at least one flange to induce movement of the latch out of the latch receiver to the inactive condition.

As to claim 28, Johnson discloses a vehicular door handle assembly comprising a primary actuator (10) adapted to be mounted to a vehicle door and movable between a latched position and an opened position, and wherein the vehicle door is opened by a user by moving the primary actuator between the latched position and the opened position.

Further, a secondary actuator (18) operatively associated with the primary actuator and movable between a secure position, wherein movement of the primary actuator from the latched position to the opened position is prevented, and a release position, wherein the primary actuator can move from the latched position to the opened position.

The primary actuator and the secondary actuator have a common or similar actuation path so that attempted movement of the primary actuator out of the latched position first causes the secondary actuator to be moved from the secure position to the release position.

As to claim 32, Johnson discloses that the first and second user interaction portions are hand grip regions on the handle and on the trigger.

As to claim 34, Johnson discloses that the primary and secondary actuators have a common actuation path that is arcuate.

As to claim 35, Johnson discloses a vehicular door handle assembly comprising an actuator (10) adapted to be mounted to a vehicle door and movable through an actuation path to an opened position, and wherein a user opens the vehicle door by moving the actuator to the opened position.

A latch (14) operatively associated with the actuator for selectively preventing movement of the actuator to the opened position.

The actuation path comprises a first portion and a second portion and movement of the actuator through the first portion deactivates the latch so that the actuator can move through the second portion to the opened position, and wherein the first portion and the second portion of the actuation path are serially aligned and substantially indistinguishable to a user during attempted movement of the actuator to the opened position.

As to claim 36, Johnson discloses that the actuator comprises a secondary actuator (18) movable to a release position during the first portion of the actuation path for deactivating the latch.

As to claim 37, Johnson discloses that the actuator has a first user interaction portion (10) for moving the actuator to the opened position, the secondary actuator has a second user interaction portion (18) for moving the secondary actuator to the release position, and wherein the second user interaction portion is aligned with at least a portion of the first user interaction portion so that the attempted movement of

the actuator to the opened position first causes the secondary actuator to be moved through the first portion of the actuation path.

As to claim 38, Johnson discloses that the actuator comprises a handle, and the first user interaction portion comprises a handle hand grip region.

As to claim 39, Johnson discloses that the secondary actuator comprises a trigger mounted to the handle, and the second user interaction portion comprises a trigger hand grip region.

Allowable Subject Matter

5. **Claim 14 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3676

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

A handwritten signature in black ink, appearing to read 'CL' followed by a horizontal line.

Carlos Lugo
Patent Examiner AU 3676
April 5, 2006

